

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	8:08CR471
Plaintiff,)	
)	
vs.)	ORDER
)	
DELROY FISCHER,)	
)	
Defendant.)	

This matter is before the court on the motion to continue by defendant Delroy Fischer (Fischer) (Filing No. 76). Fischer seeks a two week continuance of the trial of this matter because Fischer will be undergoing medical treatment. Fischer's counsel represents that counsel for the government has no objection to the motion. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Fischer's motion to continue trial (Filing No. 76) is granted.
2. Trial of this matter is re-scheduled for **January 25, 2010**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **December 21, 2009 and January 25, 2010**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant will be physically unable to stand trial due to an inpatient medical procedure. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(3)(A).
3. The motion to continue (Filing No. 75) was erroneously filed in this matter and is stricken.

DATED this 21st day of December, 2009.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge